SB Civil Writ Petition No.2979/2005

Mahaveer Singh
v.
State of Rajasthan & Ors.

Date of Order :: 16th December, 2005

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Mahesh Bora, for the petitioner.
Mrs.Vidhyawati Bora, Dy.Govt.Advocate.

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The petitioner, a member of Rajasthan Police Subordinate Service, was placed under compulsory retirement by Superintendent of Police, Chittorgarh exercising powers conferred by Rule 53(1) of the Rajasthan Civil Services (Pension) Rules, 1996 by an order dated 29.11.2000.

The petitioner while in service was subjected to a criminal trial for offences under Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act, 1947 and for Section 161 IPC. The annual grade increments since 1983 were not released in favour of the petitioner as he was facing criminal trial referred above. The respondents also not allowed post retiral benefits to the petitioner due to pendency of the criminal trial. By judgment dated 20.8.2001 the petitioner was acquitted from the charges alleged. In spite of it the respondents neither sanctioned annual grade increments in favour of the petitioner which were detained since 1983 nor they allowed regular post

retiral benefits including the pension. Being aggrieved by the same the petitioner preferred present writ petition seeking a direction for the respondents to release all due annual grade increments and then to make fixation of his pay accordingly and also for grant of post retiral benefits including regular pension.

A reply to the writ petition has been filed on behalf of the respondents admitting the fact that the petitioner stood acquitted from the allegations pertaining to commission of offence under Prevention of Corruption Act as well as under Indian Penal Code, however, the respondents justified non grant of annual grade increments and post retiral benefits including pension to the petitioner on the count that the judgment dated 20.8.2001 acquitting the petitioner from the allegations for commission of offence under Prevention of Corruption Act and Indian Penal Code is subject matter of an appeal before Rajasthan High Court in SBCr.Appeal No.1013/2001. It is contended by the respondents that the judgment dated 20.8.2001 passed by learned Judge, Special Court under Prevention of Corruption Act, Udaipur is not final being subject matter of an appeal pending before the High Court.

Heard counsel for the parties.

The respondents did not allow annual grade increments to the petitioner from the year 1983 to the date of his retirement on the count that in the period aforesaid the petitioner was facing criminal trial and for the same reason post retiral benefits including pension was not allowed. The criminal trial concerned by judgment dated 20.8.2001 reached at an end and the petitioner was acquitted from the charges alleged. After getting the order of acquittal no reason survives to deny post retiral benefits including pension and annual grade increments detained by the respondents. The right to detain post retiral benefits and annual grade increments is with the respondents only in the event of conviction of a government servant and the same at the most could have been deferred till final disposal of criminal trial.

In the present case the criminal trial has already been concluded and the petitioner has already been acquitted from the charges. The respondents, therefore, are not having any authority to deny post retiral benefits and annual grade increments for which the petitioner is otherwise entitled.

Accordingly this petition for writ is allowed. The respondents are directed to release annual grade increments for which the petitioner is entitled since 1983 uptil the date of his retirement. The respondents are further directed to make fixation

of the petitioner's pay in the Revised Pay Rules. All post retiral benefits including pension and its commutation is also required to be computed and determined. Accordingly the same is ordered to be released to the petitioner within a period of three months from today. The petitioner shall be entitled for interest @ 8.5% per annum on the amount of arrears accrued as a consequence of directions above from the date of retirement from service.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.